



MINNESOTA JUDICIAL TRAINING UPDATE



NORGAARD PLEA OF GUILTY (Unable To Recall Facts)

QUESTION: WHAT IS A *NORGAARD* PLEA OF GUILTY?

A *Norgaard* Plea is a procedure that governs situations where a defendant wants to enter a plea of guilty (usually in order to take advantage of a plea agreement) but is unable to recall facts due to intoxication or amnesia. Unlike an *Alford* plea, in a *Norgaard* Plea, Defendant does **not** make a claim he is innocent. *State ex rel Norgaard v. Tabash*, 110 N.W.2d 867 (1961); *State v. Neumann*, 262 N.W.2d 426 (Minn. 1978); *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994).

A VALID '*Norgaard*' PLEA REQUIRES THREE BASIC STEPS

STEP ONE: The record should explicitly indicate that defendant is entering a *Norgaard* plea and that defendant understands what a *Norgaard* Plea is;

STEP TWO: Defendant should be asked the following 8 questions:

1. Have you read the complaint and police reports in the prosecutors file?
2. Do you have any recollection of the events referred to in those reports?
3. Were you intoxicated at the time of the events referred to in those reports?
4. Do you have any reason to doubt the accuracy of those reports?
5. Do you understand that if you went to trial the state's witnesses would testify that the following occurred: _____: (*Prosecutor summarizes the state's case, including specific statements from the police reports*).
6. Do you believe that based on that evidence, the jury, applying the presumption of innocence and the requirement of proof beyond a reasonable doubt, would find you guilty of _____?
7. (Optional) Are you entering this plea to obtain the benefit of the plea bargain being offered by the prosecutor?
8. (Optional) Are you making any claim that you are innocent? (Answer must be NO).

STEP THREE: The District Court should enter the following finding:
Based upon the facts offered in support of the plea, the court finds there is sufficient evidence to support a jury verdict of guilty and that the plea is voluntarily, knowingly, and intelligently entered. *State v. Theis*, 742 N.W.2d 643 at 647.